

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23329 )  
of Max E. Larson and Alpha G. Sills )  
to Appropriate from Wixon Spring ) DECISION 1384  
and Unnamed Spring in Sierra County )  
\_\_\_\_\_ )

DECISION APPROVING APPLICATION

Max E. Larson and Alpha G. Sills having filed Application 23329 for a permit to appropriate unappropriated water; a protest having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

Substance of the Application

1. Application 23329 is for a permit to appropriate 0.025 cubic foot per second (cfs) by direct diversion from January 1 to December 31 of each year for domestic, recreation, fire protection and mining purposes from Wixon Spring and an unnamed spring in Sierra County. The points of diversion are to be located in SE $\frac{1}{4}$  of NE $\frac{1}{4}$ , Section 28, T20N, R12E, MDB&M, on Forest Service land.

### Applicants' Project

2. The applicants propose to transport the water by about 2,000 feet of pipeline to the place of use, Sacred Mount Mine and Buena Vista mill site. Surplus water, including waste water from the mining operations, will be discharged into an unnamed stream, tributary to the Yuba River.

### Protestants' Use of Water

3. Protestants Vernie J. Veale, et al, claim a right to use water from Wixon Spring by reason of use prior to 1890 and riparian rights. Their place of use is commonly known as the Kentuck Mine. A measurement of water being diverted into the protestants' 7-inch pipeline on August 25, 1970, was 20 gallons per minute (gpm) or 0.045 cfs. Actual use of water for beneficial purposes was not evident. It was observed that there was considerable leakage from the partially full storage tank and the pipeline which serves it.

Henry and Sophie Tschopp filed Application 22265 on August 16, 1965, and Permit 15651 was issued on July 3, 1968, for diversion from Wixon Spring and an unnamed spring of 0.06 cfs all year for irrigation, domestic, recreation and fire protection purposes.

The existing diversion and distribution system is shown on the attached sketch map.

Availability of Water

4. A flow of 65 gpm from Wixon Spring was measured on August 25, 1970; of this amount 20 gpm was flowing into the Veale, et al, system and 45 gpm was flowing into the Tschopp system. The water in both systems ultimately flows out onto the ground since the Tschopp installation has not yet been completed and the Veale place of use is apparently not occupied a large percentage of the time.

A summary of the water diversions, existing and proposed, of the water of Wixon Spring follows:

Tschopp, Permit 15651*	0.060 cfs = 26.9 gpm
Veale, et al	0.045 cfs = 20.0 gpm
Larson and Sills, Application 23329	0.025 cfs = 11.2 gpm
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Total	0.130 cfs = 58.1 gpm

\*Also included as a source is an unnamed spring

Amount available to satisfy the above parties as measured on August 25, 1970:

Wixon Spring	65 gpm
Unnamed Spring	10 gpm
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Total	75 gpm

During the summer months, surface flow from the

springs does not reach the North Yuba River or other sources from which rights have been established.

5. Unappropriated water is available to supply the applicants, and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

6. The intended use is beneficial.

7. In order to protect quality of the state's waters, applicants should be required to file a report of waste discharge from their mining operations with the appropriate regional water quality control board and obtain waste discharge requirements, unless waived by the board, before a permit to appropriate water is issued to them.

From the foregoing findings, the Board concludes that Application 23329 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the order following.

The records, documents, and other data relied upon in determining the matter are: Applications 22265 and 23329 and all relevant information on file therewith, particularly the reports of field investigations made August 25 and November 5, 1970.

ORDER

IT IS HEREBY ORDERED that Application 23329 be, and it is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.025 cubic foot per second by direct diversion to be diverted from January 1 to December 31 of each year. The equivalent of the continuous flow allowance by direct diversion for any 30-day period may be diverted in a shorter time if there be no interference with vested rights. The maximum amount diverted under this permit shall not exceed 18 acre-feet per year.

2. The maximum quantity herein stated may be reduced in the license if investigation warrants.

3. Actual construction work shall begin on or before nine months from date of permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

4. Said construction work shall be completed on or before December 1, 1973.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1974.

6. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

7. All rights and privileges under this permit, including method of diversion, method of use and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

8. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

10. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion or the right to use water diversion and conveyance facilities owned by others.

11. No water may be diverted under this permit for mining purposes until the permittee has filed a report of waste discharge with the California Regional Water Quality Control Board, Central Valley Region, pursuant to Water Code Section 13260 and the regional board or State Water Resources Control Board has prescribed waste discharge requirements (unless a waiver has been issued by the regional board or the regional board fails to act within 120 days after the report has been filed). Thereafter, water may be diverted only during such times as all requirements prescribed by the regional board or state board are being met.

Adopted as the decision and order of the State  
Water Resources Control Board at a meeting duly called and  
held at Los Angeles, California.

Dated: September 16, 1971

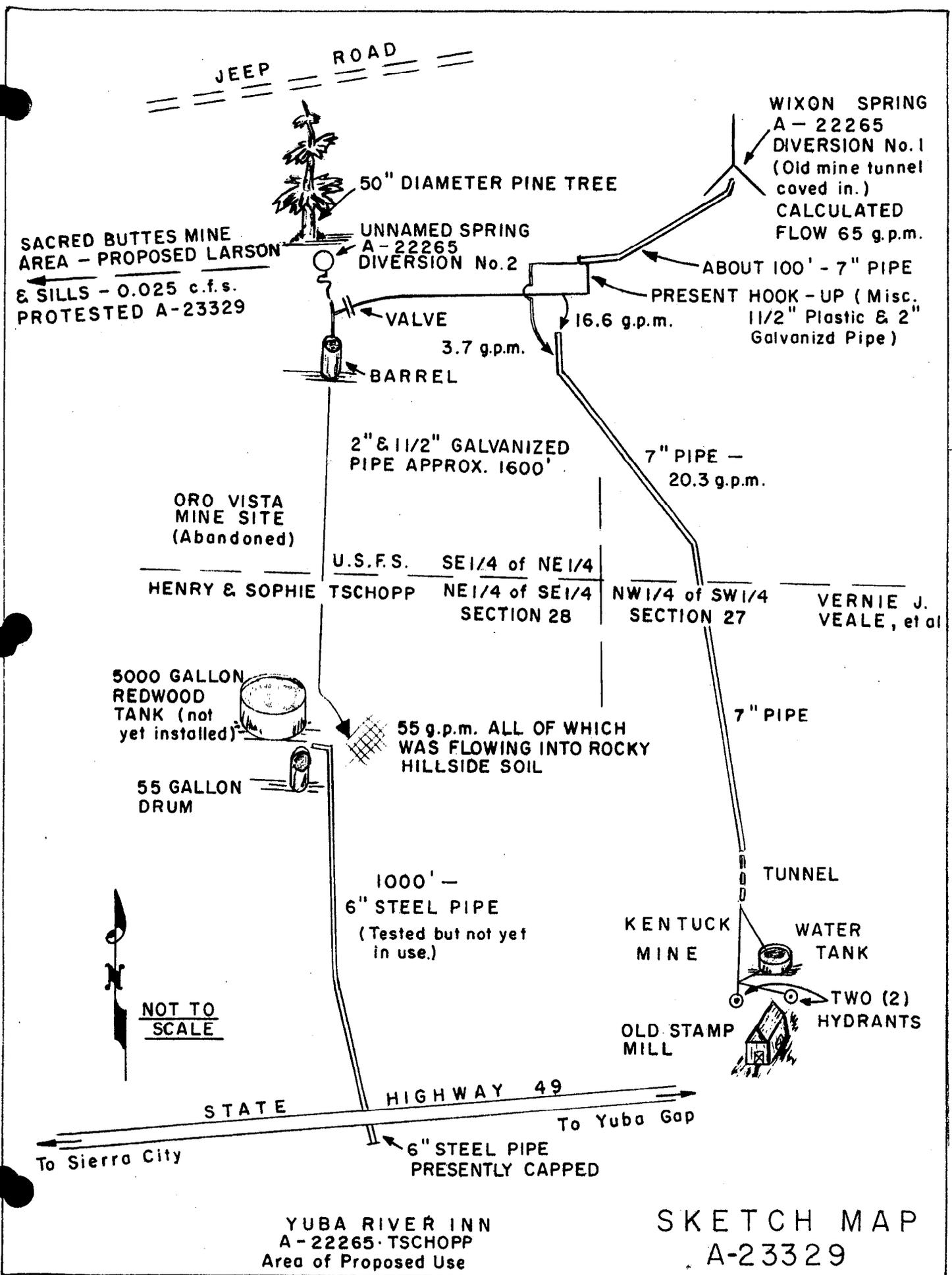
KERRY W. MULLIGAN  
Kerry W. Mulligan, Chairman

**ABSENT**  
E. F. Dibble, Vice Chairman

NORMAN B. HUME  
Norman B. Hume, Member

RONALD B. ROBIE  
Ronald B. Robie, Member

W. W. ADAMS  
W. W. Adams, Member



SACRED BUTTES MINE  
AREA - PROPOSED LARSON  
& SILLS - 0.025 c.f.s.  
PROTESTED A-23329

WIXON SPRING  
A - 22265  
DIVERSION No. 1  
(Old mine tunnel  
coved in.)  
CALCULATED  
FLOW 65 g.p.m.

UNNAMED SPRING  
A - 22265  
DIVERSION No. 2

ABOUT 100' - 7" PIPE  
PRESENT HOOK - UP (Misc.  
1 1/2" Plastic & 2"  
Galvanizd Pipe)

VALVE  
3.7 g.p.m.  
BARREL

16.6 g.p.m.

2" & 1 1/2" GALVANIZED  
PIPE APPROX. 1600'

7" PIPE -  
20.3 g.p.m.

ORO VISTA  
MINE SITE  
(Abandoned)

U.S.F.S. SE 1/4 of NE 1/4  
HENRY & SOPHIE TSCHOPP NE 1/4 of SE 1/4 NW 1/4 of SW 1/4 SECTION 28 SECTION 27 VERNIE J. VEALE, et al

5000 GALLON  
REDWOOD  
TANK (not  
yet installed)

55 g.p.m. ALL OF WHICH  
WAS FLOWING INTO ROCKY  
HILLSIDE SOIL

55 GALLON  
DRUM

1000' -  
6" STEEL PIPE  
(Tested but not yet  
in use.)

TUNNEL

KENTUCK  
MINE

WATER  
TANK

TWO (2)  
HYDRANTS

OLD STAMP  
MILL



NOT TO  
SCALE

STATE HIGHWAY 49  
To Sierra City To Yuba Gap  
6" STEEL PIPE  
PRESENTLY CAPPED

YUBA RIVER INN  
A - 22265 TSCHOPP  
Area of Proposed Use

SKETCH MAP  
A-23329